

REMARKS

Claims 1-11, 13, 16-19, 26-34 and 36-45 were rejected. Claims 12, 14, 15, 20-25 and 35 were objected to as allowable if rewritten in independent form incorporating the subject matter of the respective independent claim and any intervening claims. Claims 11-12, 35 and 40 have been cancelled without prejudice. Claim 1 has been amended to incorporate the subject matter of claims 11 and 12. Claim 30 has been amended to incorporate the subject matter of claim 35. Claim 39 has been amended to incorporate the subject matter of claim 40. New claims 46-50 have been added.

A. Specification

In the title, the title was objected to as not descriptive. The applicant respectfully disagrees. However, to expedite prosecution, the Applicant has amended the title as suggested by the Examiner.

In the abstract, the phrase "are described" was objected to. Appropriate correction has been made.

In the disclosure, various minor objections were made. Each objection was addressed. Appropriate correction has been made. A marked up version of the replacement specification and a clean version of the replacement specification are submitted herewith.

B. Drawings

In Fig. 2, element 211 was not mentioned in the specification. Element 211 has been added to the specification. Applicant asserts that no new matter is being added, as it is clear from the drawing and the disclosure where element 211 belongs in the disclosure.

In Fig. 3, element 301 was not mentioned in the specification. Element 301 has been added to the specification. Applicant asserts that no new matter is being added, as it is clear from the drawing and the disclosure where element 301 belongs in the disclosure.

In Fig. 9, label 907 has been replaced with label 927. A replacement sheet is attached.

In Fig. 9, label 917 has been replaced with label 947. A replacement sheet is attached, as stated above.

In Fig. 16, element 1600 was not mentioned in the specification. Element 1600 has been added to the specification. Applicant asserts that no new matter is being added, as it is clear from the drawing and the disclosure where element 1600 belongs in the disclosure.

In Fig. 17, labels 1704, 1706, 1708 and 1710 have been deleted. A replacement sheet is attached.

C. Claim Rejections

Claim 24 has been objected to for an informality in the phrase “from to be”. Claim 24 has been amended by removing “from”, as suggested by the office action.

Claims 1-11, 13, 16-19, 26-34 and 36-38 have been rejected as allegedly being anticipated by Baum et al., U.S. Patent No. 5,867,478, or allegedly unpatentable over Baum and another patent publication. Claims 39-45 have been rejected as allegedly being anticipated by Proctor, Jr (US 2003/0027587 A1) or as being allegedly unpatentable over Proctor and another patent publication. Applicant respectfully disagrees.

Regarding claim 11 and 12, to expedite prosecution, Applicant has amended claim 1 to include the patentable subject matter of claims 11 and 12. Regarding claim 35. Applicant has amended claim 30 to include the patentable subject matter of claim 35. The Applicant has added new claims 46-50 directed to a computer program product including instructions for performing instructions of the subject matter similar to allowable claim 1, as amended.

Regarding claim 40, claim 40 has been rejected as allegedly anticipated by Proctor, Jr. The Applicant respectfully traverses this rejection as follows. Proctor Jr. does not teach or suggest at least the claimed subject matter of claim 40 as amended as follows: “wherein said at least two different channel quality indicator values correspond to different power signal measurements made by said wireless terminal at the same time, said determined transmission power being a function of said at least two channel quality indicator values”. The office action cites paragraphs [0008] and [0011] so support the assertion that Proctor, Jr. teaches or suggests the claimed limitation. However, as described in Proctor, Jr. at paragraph [0011], “The access terminal determines the data transmission state, either ON (Active) or OFF (Idle), and adjusts transmission power accordingly.” The different powers sent by the access terminal (in ON versus OFF states) are different powers sent by the access terminal.

Contrarily, the claimed “different power signal measurements made by said wireless terminal” are different powers received by the access terminal. Specifically, claim 40 claims a base station receiving the messages similar the messages claimed in allowable claim 1. Accordingly, the Applicant respectfully asserts that claim 40 is allowable for at least the reasons that claim 1 is allowable.

CONCLUSION

In light of the remarks contained herein, the amendments made to the specification and claims, and the drawing replacement sheets, Applicants submit that the application is in condition for allowance, for which early action is requested.

Applicant hereby request a four month extension of time to respond to the Notice of Appeal filed on December 18, 2006, having a time for response up to and including July 18, 2007. Please charge the requisite fee for this Extension of Time to Deposit Account No. 17-0026.

Please charge any additional fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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